IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 19741of 2006
Date of Decision : 14.12.2006

Rajinder Pal Kaur ... Petitioner

Versus

State of Punjab and others. .. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. D.S. Pheruman, Advocate,
for the petitioner.

S.D. Anand, J.

Through this writ petition the petitioner, an ANM in the employment of respondent Nos. 1 to 3, calls into question the validity of the impugned order dated 31.10.2006 (Annexure P-4) vide which she had been transferred to a place of a distance of about 48 kms. from Amritsar.

It is apparent from the record that the petitioner (then posted at Primary Health Centre, Fatehgarh Churian, District Gurdaspur) and her colleague Gurpreet Kaur (then posted at Subsidy Health Centre (SHC Dispensary) Jagdev Kalan within the jurisdiction of PHC Ramdass, Village Jagdev Kalan) obtained orders for swapping of their places. The orders followed a consensual request made by them jointly to the competent authority. However, thereafter, she came to be transferred to the present station of posting. Her grievance is that her transfer from the place where she obtained placement on the basis of mutual transfer, has been ordered “in a mechanically manner just to please Bhupinder Kaur at the behest of some political person”. Her further grievance is that her present posting would disable her from looking after her minor children as that place is at a

distance of 48 kms. from her matrimonial house. Her initial place of posting i.e. Fatehgarh Churian was at a distance of 26 kms. from Amritsar; while Subsidy Health Centre, Dispensary, Jagdev kalan was at the distance of 10 kms.

It is apparent from the record that, as per the averment made by the petitioner, the impugned transfer order had been passed "in a mechanically manner just to please Bhupinder Kaur at the behest of some political person". However, the person again whom those averments are directed has not been impleaded as a party respondent. Thus, those allegations cannot be given any adjudicated upon by this Court.

In the transfer order (Annexure P/4), Smt. Rajinder Kaur had been transferred from PHC Fatehgarh Churian, Gurdaspur to Civil Hospital Dera Baba Nanak, Gurdaspur; while respondent No.4 – Bhupinder Kaur had been transferred from Civil Hospital Dera Baba Nanak, Gurdaspur to PHC Fatehgarh Churian, Gurdaspur. Those orders had been passed in cancellation of order No. 6485 dated 14.09.2006 (Annexure P/3) vide which Bhupinderjit Kaur had been ordered to be transferred from Sub Centre Araich PHC Payal, Ludhiana to CH Dera Baba Nanak, Gurdaspur. In the petition, the petitioner's name had been described as Rajinder Pal Kaur. However, in the transfer order dated 31.10.2006 (Annexure P/4), her name had been described as Smt. Rajinder Kaur. Likewise, in the transfer order dated 14.9.2006 (Annexure P/3), name of respondent No. 4 had been described as Smt. Bhupinderjit Kaur. Insofar as the petitioner is concerned, the correction of her name as Rajinder Pal Kaur was ordered by the Director, Health Services Family Welfare, Punjab vide order dated 20.11.2006 (Annexure P/5). However, none of the parties obtained the correction of

name of respondent No.4. It may be indicated, even at the cost of repetition, that the order dated 14.9.2006 (Annexure P/3) transferred one Bhupinderjit Kaur from Sub Centre Araich, PHC Payal, Ludhiana to CH Dera Baba Nanak, Gurdaspur; while it is one Bhupinder Kaur who was ordered to be transferred from Civil Hospital Dera Baba Nanak, Gurdaspur to PHC Fatehgarh Churian, Gurdaspur in place of the petitioner. In the petition, respondent No.4 had been described as Bhupinder Kaur. It cannot, thus, be assumed that the transfer orders (Annexures P-3 and P-4) pertain to respondent No.4.

By the very nature of things, transfers are an unavoidable incident of public service. In the case of paramedical staff, the competent authority may like to order the postings and transfers of the employees on the basis of the requirements at a particular health institution. Nothing mala fide can be, per se, read into it. Even otherwise, the person against whom the allegations of mala fides have been levelled, has not be impleaded as a party respondent. It is also not the averment that the distance between her present station of posting and her matrimonial house is such that it would be impossible for her to get back to the latter place to be able to look after her children.

For the reasons recorded above, we are reluctant to invalidate the discretion exercised by the competent authority, in exercise of the administrative jurisdiction, in passing the impugned order.

Dismissed.

(S.D. Anand)
Judge

December 14, 2006 (J.S. Khehar)
vkd Judge